

# HOUSE BILL No. 1542

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 34-55-10-2.

**Synopsis:** Property exempt from execution, including bankruptcy cases. Allows unused bankruptcy exemption amounts in one category of property to be applied as additional exemption amounts in another category of property.

**Effective:** July 1, 2009.

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**DeLaney, Burton, Bardon**

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January 16, 2009, read first time and referred to Committee on Financial Institutions.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE BILL No. 1542

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 34-55-10-2, AS AMENDED BY P.L.145-2008,  
2       SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2009]: Sec. 2. (a) This section does not apply to judgments  
4       obtained before October 1, 1977.

5       (b) The amount of each exemption under subsection (c) applies until  
6       a rule is adopted by the department of financial institutions under  
7       section 2.5 of this chapter.

8       (c) **Except as provided in subsection (d)**, the following property of  
9       a debtor domiciled in Indiana is exempt:

10       (1) Real estate or personal property constituting the personal or  
11       family residence of the debtor or a dependent of the debtor, or  
12       estates or rights in that real estate or personal property, of not  
13       more than fifteen thousand dollars (\$15,000). The exemption  
14       under this subdivision is individually available to joint debtors  
15       concerning property held by them as tenants by the entireties.

16       (2) Other real estate or tangible personal property of eight  
17       thousand dollars (\$8,000).



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(3) Intangible personal property, including choses in action, deposit accounts, and cash (but excluding debts owing and income owing), of three hundred dollars (\$300).

(4) Professionally prescribed health aids for the debtor or a dependent of the debtor.

(5) Any interest that the debtor has in real estate held as a tenant by the entirety. The exemption under this subdivision does not apply to a debt for which the debtor and the debtor's spouse are jointly liable.

(6) An interest, whether vested or not, that the debtor has in a retirement plan or fund to the extent of:

(A) contributions, or portions of contributions, that were made to the retirement plan or fund by or on behalf of the debtor or the debtor's spouse:

(i) which were not subject to federal income taxation to the debtor at the time of the contribution; or

(ii) which are made to an individual retirement account in the manner prescribed by Section 408A of the Internal Revenue Code of 1986;

(B) earnings on contributions made under clause (A) that are not subject to federal income taxation at the time of the levy; and

(C) roll-overs of contributions made under clause (A) that are not subject to federal income taxation at the time of the levy.

(7) Money that is in a medical care savings account established under IC 6-8-11.

(8) Money that is in a health savings account established under Section 223 of the Internal Revenue Code of 1986.

(9) Any interest the debtor has in a qualified tuition program, as defined in Section 529(b) of the Internal Revenue Code of 1986, but only to the extent funds in the program are not attributable to:

(A) excess contributions, as described in Section 529(b)(6) of the Internal Revenue Code of 1986, and earnings on the excess contributions;

(B) contributions made by the debtor within one (1) year before the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the contributions; or

(C) the excess over five thousand dollars (\$5,000) of aggregate contributions made by the debtor for all programs under this subdivision and education savings accounts under subdivision

(10) having the same designated beneficiary:

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(i) not later than one (1) year before; and

(ii) not earlier than two (2) years before;

the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the aggregate contributions.

(10) Any interest the debtor has in an education savings account, as defined in Section 530(b) of the Internal Revenue Code of 1986, but only to the extent funds in the account are not attributable to:

(A) excess contributions, as described in Section 4973(e) of the Internal Revenue Code of 1986, and earnings on the excess contributions;

(B) contributions made by the debtor within one (1) year before the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the contributions; or

(C) the excess over five thousand dollars (\$5,000) of aggregate contributions made by the debtor for all accounts under this subdivision and qualified tuition programs under subdivision

(9) having the same designated beneficiary:

(i) not later than one (1) year before; and

(ii) not earlier than two (2) years before;

the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the excess contributions.

(11) The debtor's interest in a refund or a credit received or to be received under section 32 of the Internal Revenue Code of 1986.

**(d) If a debtor has property valued at less than the maximum exemption value allowed under subsection (c)(1), (c)(2), (c)(3), (c)(9), or (c)(10), the total amount of unused exempt value under those provisions may be applied as additional exemption amounts under subsection (c)(1), (c)(2), (c)(3), (c)(9), or (c)(10).**

~~(d)~~ (e) A bankruptcy proceeding that results in the ownership by the bankruptcy estate of a debtor's interest in property held in a tenancy by the entireties does not result in a severance of the tenancy by the entireties.

~~(e)~~ (f) Real estate or personal property upon which a debtor has voluntarily granted a lien is not, to the extent of the balance due on the debt secured by the lien:

(1) subject to this chapter; or

(2) exempt from levy or sale on execution or any other final process from a court.

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